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HOUSE BILL 809

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

AN ACT

RELATING TO HEALTH CARE; IMPOSING CERTAIN REQUIREMENTS ON
MEDICAID PROVIDERS TO ENSURE FAIR AND NONDISCRIMINATORY
PRACTICES IN RELATIONSHIPS WITH HEALTH CARE PROFESSIONALS IN
THE MEDICAID PROGRAM; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 27-2-12.3 NMSA 1978 (being Laws 1987,
Chapter 269, Section 1, as amended) is amended to read:

"27-2-12.3. MEDICAID REIMBURSEMENT--EQUAL PAY FOR EQUAL
PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS',
CHIROPRACTIC PHYSICIANS' AND PSYCHOLOGISTS' SERVICES. --

A. The human services department shall establish [a
rate] rates for the reimbursement of physicians, dentists,
optometrists, podiatrists, chiropractic physicians and

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1 psychologists for services rendered to medicaid patients [~~that~~
2 ~~provides~~] that are not in the managed care system. The rates
3 shall provide equal reimbursement for the same or similar
4 services rendered without respect to the date on which [~~such~~]
5 the physician, dentist, optometrist, podiatrist, chiropractic
6 physician or psychologist entered into practice in New Mexico,
7 the date on which the physician, dentist, optometrist,
8 podiatrist, chiropractic physician or psychologist entered into
9 an agreement or contract to provide [~~such~~] services or the
10 location in which [~~such~~] services are to be provided in the
11 state [~~provided, however, that the requirements of this section~~
12 ~~shall not apply when the human services department contracts~~
13 ~~with entities pursuant to Section 27-2-12.6 NMSA 1978 to~~
14 ~~negotiate a rate for the reimbursement for services rendered to~~
15 ~~medicaid patients in the medicaid managed care system].~~

16 B. For services rendered to medicaid patients in
17 the medicaid managed care system, the provisions of Section
18 27-11-6 NMSA 1978 shall apply."

19 Section 2. Section 27-11-1 NMSA 1978 (being Laws 1998,
20 Chapter 30, Section 1) is amended to read:

21 "27-11-1. SHORT TITLE. -- [~~This act~~] Chapter 27, Article 11
22 NMSA 1978 may be cited as the "Medicaid Provider Act". "

23 Section 3. Section 27-11-2 NMSA 1978 (being Laws 1998,
24 Chapter 30, Section 2) is amended to read:

25 "27-11-2. DEFINITIONS. -- As used in the Medicaid Provider
. 144808. 1

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1 Act:

2 A. "department" means the human services
3 department;

4 B. "health care professional" means a physician or
5 other health care practitioner who is licensed, certified or
6 otherwise authorized by the state to provide health care
7 services consistent with state law;

8 [~~B.~~] C. "managed care organization" means a person
9 eligible to enter into risk-based prepaid capitation agreements
10 with the department to provide health care and related
11 services;

12 [~~C.~~] D. "medicaid" means the medical assistance
13 program established pursuant to Title 19 of the federal Social
14 Security Act and regulations issued pursuant to that act;

15 [~~D.~~] E. "medicaid provider" means a person,
16 including a managed care organization, operating under contract
17 with the department to provide medicaid-related services to
18 recipients;

19 [~~E.~~] F. "person" means an individual or other legal
20 entity;

21 [~~F.~~] G. "recipient" means a person whom the
22 department has determined to be eligible to receive
23 medicaid-related services;

24 [~~G.~~] H. "secretary" means the secretary of human
25 services; and

. 144808. 1

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1 [~~H-~~] I. "subcontractor" means a person who
2 contracts with a medicaid provider to provide medicaid-related
3 services to recipients. "

4 Section 4. A new section of the Medicaid Provider Act,
5 Section 27-11-6 NMSA 1978, is enacted to read:

6 "27-11-6. [NEW MATERIAL] FAIR AND NONDISCRIMINATORY
7 PRACTICES REQUIRED OF MEDICAID PROVIDERS--REMEDIES FOR
8 VIOLATIONS. --

9 A. In its provision of services to medicaid
10 patients, a medicaid provider:

11 (1) shall not refuse to renew a contract with
12 a health care professional if requested by the health care
13 professional unless the medicaid provider can demonstrate by a
14 preponderance of the evidence that good cause exists for the
15 refusal;

16 (2) shall establish and implement rates of
17 reimbursement for services rendered to medicaid patients that
18 provide equal reimbursement for the same or similar services
19 rendered without respect to the date on which the health care
20 professional entered into practice in New Mexico, the date on
21 which the health care professional entered into a contract to
22 provide the services or the location in which the services are
23 to be provided in the state; and

24 (3) shall not discriminate against a contract
25 health care professional based on the race, ethnicity, gender,

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1 religious beliefs or sexual orientation of the health care
2 professional.

3 B. A health care professional that is damaged by a
4 medicaid provider's failure to comply with provisions of
5 Paragraph (1), (2) or (3) of Subsection A of this section has a
6 civil right of action against the provider for damages, and if
7 the health care professional prevails in a suit brought
8 pursuant to this subsection may be awarded:

- 9 (1) compensatory damages;
- 10 (2) punitive damages in an amount at least
11 three times the award of compensatory damages if the medicaid
12 provider's failure to comply was intentional;
- 13 (3) a reasonable attorney fee; and
- 14 (4) costs and expenses incurred in prosecuting
15 the action. "

16 Section 5. ~~EMERGENCY.~~ --It is necessary for the public
17 peace, health and safety that this act take effect immediately.